

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
GALVESTON DIVISION

YODE INVESTMENTS, LLC,

Plaintiff

V.

**CRUM & FORSTER SPECIALTY
INSURANCE COMPANY, and
INSURANCE OFFICE OF AMERICA
d/b/a ENVIRONMENTAL
UNDERWRITING SOLUTIONS.**

Defendants

Civil Action No. _____

DEFENDANTS' NOTICE OF REMOVAL

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Defendants Crum & Forster Specialty Insurance Company (“Crum & Forster”) and Insurance Office of America d/b/a Environmental Underwriting Solutions (“EUS”) file this Notice of Removal pursuant to 28 U.S.C. §1446(a) and respectfully show the Court as follows:

I. BACKGROUND

1. This insurance coverage case arises out of state court litigation in which plaintiff Yode Investments, LLC (“Yode Investments”) asserts claims arising out of alleged pollution leakage at a property it owned and leased to AAA Chemicals, Inc. In 2016, Yode Investments filed suit against AAA Chemicals, Inc., Howard W. Apel, II, and James T. Scholes.¹

¹ Cause No. 16-cv-0699; *Yode Investments, LLC v. AAA Chemicals, Inc., et al*; In the District Court of Galveston County, Texas, 212th Judicial District.

2. Yode Investments later filed an Amended Petition and added Crum & Forster and EUS as defendants. Yode Investments specifically asserts that it is an insured under the insurance policies issued by Crum & Forster and EUS to AAA Chemicals, Inc.²

3. Crum & Forster and EUS moved to sever the claims asserted against them from the claims asserted against AAA Chemicals, Inc., Howard W. Apel, II, and James T. Scholes. The state court granted that motion on January 4, 2017.

4. On January 27, 2017 Crum & Forster and EUS filed this Notice of Removal. As such, removal has been effected within thirty-days.

5. Pursuant to Local Rule 81 the following documents are being filed concurrently with this removal: the Index of Matters Being Filed (Exhibit 1); a Civil Case Cover Sheet (Exhibit 2); a copy of the Galveston County Clerk's file for this case (Exhibit 3), which includes true and correct copies of all executed process, pleadings and orders; and Designation of Counsel (Exhibit 4).

II. BASIS FOR REMOVAL

6. Removal is proper based upon diversity of citizenship under 28 U.S.C. §§ 1332(a)(1), 1441(a), and 1446.

A. The Proper Parties Are Diverse

7. Plaintiff Yode Investments, LLC is a limited liability company doing business in La Marque, Galveston County, Texas. *See* Plaintiff's First Amended Petition at page 1.

8. Crum & Forster is a corporation organized and existing under the laws of the State of Delaware and has its place of business in Morristown, New Jersey.

9. EUS is Florida corporation and has its principal place of business in Longwood, Florida.

² EUS specifically denies that it issued any insurance policies.

B. The Amount in Controversy Exceeds Jurisdictional Requirements.

10. This is a civil action in which the amount in controversy exceeds the jurisdictional limits of \$75,000.00. Yode Investments has specifically alleged that it has paid in excess of \$600,000 in cleanup costs at its property. Yode Investments also asserts that Crum & Forster and EUS are liable for breach of contract, bad faith, and violations of the Texas Insurance Code. First Amended Petition at page 10. Thus, the amount in controversy clearly exceeds \$75,000.

C. Removal is Procedurally Correct.

11. The underlying state court issued an order severing these claims from the original action on January 4, 2017. At that time the case become removable due to diversity of citizenship. Because this Notice of Removal was filed within thirty-days of the severance order, removal is timely. 28 U.S.C. §1446(b)(3).

12. Venue is proper in this district under 28 U.S.C. §1446(a) because this district and division embrace the place in which the removed action has been pending and because a substantial part of the events giving rise to Plaintiff's claims allegedly occurred in this district.

13. Pursuant to 28 U.S.C. §1446(a), all pleadings, process, orders, and all other filings in the state court action are attached to this Notice.

14. Pursuant to 28 U.S.C. §1446(d), promptly after Defendants file this Notice, written notice of the filing will be given to Plaintiff, the adverse party, as well as the Clerk of Harris County.

15. Both Crum & Forster and EUS consent to this removal.

III. CONCLUSION

Based upon the foregoing, Defendants Crum & Forster Specialty Insurance Company and Insurance Office of America d/b/a Environmental Underwriting Solutions hereby remove this case to this Court for trial and determination.

Respectfully submitted,

THOMPSON, COE, COUSINS & IRONS, L.L.P.

By: /s/ Brian S. Martin

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CERTIFICATE OF SERVICE

This is to certify that on the 27th day of January, 2017, a true and correct copy of the foregoing was delivered to counsel for Plaintiff in accordance with the Federal Rules of Civil Procedure:

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